

# **EXHIBIT A**

**Metzinger, Jaclyn**

---

**From:** Wise, Tamar S. <TWise@cozen.com>  
**Sent:** Tuesday, April 26, 2022 5:35 PM  
**To:** Wone, Andrew  
**Cc:** de Leeuw, Michael; Matuschak, Kate; Soberats, Annette; Glennon, Edward; Graham, Glenn T.; Metzinger, Jaclyn; Castello, Geoffrey  
**Subject:** Re: Extension of Deadlines

**CAUTION: This message originated outside of Kelley Drye and was sent by: [twise@cozen.com](mailto:twise@cozen.com)**

---

Yes, same as the corporate defendants.

On Apr 26, 2022, at 5:08 PM, Wone, Andrew <awone@ftc.gov> wrote:

**\*\*EXTERNAL SENDER\*\***

Thanks Glenn.

Michael or Tamar, does Mr. Underwood consent to the schedule outlined in my email below (the email sent at 11:25am today)?

Andrew

---

**From:** Graham, Glenn T. <GGraham@KelleyDrye.com>  
**Sent:** Tuesday, April 26, 2022 1:03 PM  
**To:** Wone, Andrew <awone@ftc.gov>; Metzinger, Jaclyn <JMetzinger@kelleydrye.com>; Castello, Geoffrey <GCastello@KelleyDrye.com>; Michael B. de Leeuw (mdeleeuw@cozen.com) <mdeleeuw@cozen.com>; Wise, Tamar S. <TWise@cozen.com>  
**Cc:** Matuschak, Kate <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Glennon, Edward <eglennon@ftc.gov>  
**Subject:** RE: Extension of Deadlines

Andrew,

The corporate defendants agree. If plaintiffs reconsider our prior proposal for the paragraphs 5-9 of the Order (listed below), you may also include them in your letter request.

- Parties shall exchange objections to the proposed trial exhibits, paragraph 5 of the Court's Order, by **May 12**
- Parties shall meet and confer regarding their objections to the proposed trial exhibits, paragraph 6 of the Courts' Order, by **May 26**
- Pretrial materials identified in paragraphs 7, 8 and 9 of the Court's Order are due by **July 13**
- **Status conference in the second week of July to be set by the Court.**

**GLENN GRAHAM**

Special Counsel

**Kelley Drye & Warren LLP**

Tel: (973) 503-5917

Cell: (201) 602-2790

ggraham@kelleydrye.com

---

**From:** Wone, Andrew <awone@ftc.gov>

**Sent:** Tuesday, April 26, 2022 11:25 AM

**To:** Metzinger, Jaclyn <JMetzinger@kelleydrye.com>; Graham, Glenn T. <GGraham@KelleyDrye.com>; Castello, Geoffrey <GCastello@KelleyDrye.com>; Michael B. de Leeuw (mdeleeuw@cozen.com) <mdeleeuw@cozen.com>; Wise, Tamar S. <TWise@cozen.com>

**Cc:** Matuschak, Kate <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Glennon, Edward <eglennon@ftc.gov>

**Subject:** RE: Extension of Deadlines

**CAUTION: This message originated outside of Kelley Drye and was sent by: [awone@ftc.gov](mailto:awone@ftc.gov)**

---

Dear Jaclyn:

Thank you for your response. With the summary judgment opposition deadline approaching, we plan to submit a letter to the court today stating that the parties agree on the schedule listed below. Please confirm that you are in agreement. Michael, please confirm that Mr. Underwood consents.

- Parties shall exchange proposed exhibit lists (item 4 of the Court's November 23, 2021 Pretrial Order) by April 28.
- NYAG's opposition to Mr. Underwood's motion for partial summary judgment (Docket No. 210) is due by May 6.
- Plaintiffs' oppositions to the Corporate Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by June 16.
- Mr. Underwood's reply to the NYAG's opposition to partial summary judgment is due by June 23.
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by July 8.

In our letter, we will also let the court know that the parties continue to negotiate the deadlines for items 5-9 of the Court's Order. We will reconsider your latest proposal on the remaining pretrial deadlines and get back to you.

Regards,  
Andrew

---

**From:** Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>  
**Sent:** Tuesday, April 26, 2022 8:42 AM  
**To:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>; Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)> <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>  
**Cc:** Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>  
**Subject:** RE: Extension of Deadlines

Annette:

Without belaboring this, we will agree to your proposed dates for the motion for summary judgment briefing.

We cannot, however, agree to your final proposed bullet point whereby the parties would meet and confer on the pretrial order deadline. Based on plaintiffs' request, the Court already set those deadlines. After the Court set the schedule, defendants have proceeded pursuant to that court order. Thus, while we are open to considering (modest) extensions for the remaining pretrial dates, we cannot agree to leave them open without setting dates certain.

Finally, we dispute your characterization of the NYAG's "accommodation" of Mr. Underwood's reply deadline. As you know, this extension was only necessary because the NYAG asked—for a *second time*—for additional time to respond to Mr. Underwood's jurisdictional motion.

Jaclyn

**JACLYN METZINGER**

**Kelley Drye & Warren LLP**  
Tel: (212) 808-7843  
Cell: (585) 576-7268

---

**From:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>  
**Sent:** Monday, April 25, 2022 4:24 PM  
**To:** Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>; Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)> <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>  
**Cc:** Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>  
**Subject:** RE: Extension of Deadlines

<b>CAUTION: This message originated outside of Kelley Drye and was sent by: <a href="mailto:asoberats@ftc.gov">asoberats@ftc.gov</a></b>
--

---

Jaclyn,

We have been very transparent with your team about our need for additional time given the breadth of your summary judgment motion and our pre-existing family commitments and travel plans. We agree with the desire to keep this case moving along swiftly. We have accommodated Mr. Underwood's request to have roughly seven weeks to file his reply brief due to preexisting commitments, and we were hopeful that your team would reciprocate the same courtesy. With regard to plaintiffs' opposition

to summary judgment, your proposed deadline of June 10 would not work for us because we will have several team members out of the office at that time.

Given that the parties have failed to reach an agreement for the summary judgment and pretrial schedules, we plan to propose the following dates to Judge Stanton tomorrow morning. If the schedule below is agreeable to your team, please let us know by **9 am tomorrow**.

- Parties shall exchange proposed exhibit lists (item 4 of the Court's Order) by **April 28**. (Plaintiffs will inform the Court that the parties agree to this deadline).
- NYAG's opposition to Mr. Underwood's motion for partial summary judgment (Docket No. 210) due by **May 6**. (Plaintiffs will inform the Court that the parties agree to this deadline).
- Plaintiffs' oppositions to the Corporate Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **June 16**.
- Mr. Underwood's reply to the NYAG's opposition to partial summary judgment due by **June 23**. (Plaintiffs will inform the Court that the parties agree to this deadline).
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **July 8**.
- Parties to meet and confer by May 13 on a pretrial schedule (items 5-9 of the Court's Order) to commence after the conclusion of summary judgment briefing.

Please also let us know whether the Defendants agree that our opposition briefs will not be due this Thursday in the event that we are unable to reach an agreement by tomorrow at 9 am.

Annette

---

**From:** Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>

**Sent:** Friday, April 22, 2022 4:10 PM

**To:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>; Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw ([mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)) <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>

**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>

**Subject:** RE: Extension of Deadlines

Ed,

It is certainly not our intent to impose on your personal commitments or travel plans, but our client has been defending the FTC's allegations for 7 years at great costs, and is entitled to a resolution without any further delays. While we continue to disagree with your proposal, in the spirit of compromise and to avoid burdening the Court with this, we can agree to the below. This compromise provides you with far more time for summary judgment than the rules would otherwise and should be adequate to complete the remaining pretrial deadlines.

- Plaintiffs' oppositions to the Corporate Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **June 10**
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **July 1**
- Parties shall exchange proposed trial exhibit lists, paragraph 4 of the Court's November 23, 2021 Order for Pre-Trial Submissions ("Order") (Docket No. 192), by **April 28**
- Parties shall exchange objections to the proposed trial exhibits, paragraph 5 of the Court's Order, by **May 12**

- Parties shall meet and confer regarding their objections to the proposed trial exhibits, paragraph 6 of the Courts' Order, by **May 26**
- Pretrial materials identified in paragraphs 7, 8 and 9 of the Court's Order are due by **July 13**
- **Status conference: July \_\_, 2022.**

Jaclyn

## JACLYN METZINGER

**Kelley Drye & Warren LLP**

Tel: (212) 808-7843

Cell: (585) 576-7268

---

**From:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>

**Sent:** Thursday, April 21, 2022 4:25 PM

**To:** Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw ([mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)) <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>

**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>

**Subject:** RE: Extension of Deadlines

**CAUTION: This message originated outside of Kelley Drye and was sent by: [eglennon@ftc.gov](mailto:eglennon@ftc.gov)**

---

Glenn,

We believe that the schedule we proposed yesterday represents a reasonable compromise that gives the parties sufficient time to brief summary judgment and complete Judge Stanton's pretrial requirements. For a number of reasons, including personal commitments and pre-existing travel plans, we cannot agree to shorten the periods proposed in that schedule. We would ask you to reconsider your position on our proposal. Should you inform us that you don't agree to it, we plan to ask the Court to set a briefing schedule for summary judgment and the request to file under seal in line with our proposal from yesterday (oppositions due June 23, replies due July 14). We also would ask the Court to direct the parties to meet and confer regarding a schedule to complete the pretrial requirements that would commence after the briefing is complete.

Please let us know your thoughts.

Best,

Ed

Edward Glennon | Attorney

Federal Trade Commission | Bureau of Consumer Protection | Division of Advertising Practices

Org Code 1145 | Mail Stop CC-6316

600 Pennsylvania Avenue, NW | Washington DC 20580

(202) 326-3126 | [eglennon@ftc.gov](mailto:eglennon@ftc.gov)

---

**From:** Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>  
**Sent:** Wednesday, April 20, 2022 2:24 PM  
**To:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>; Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw ([mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)) <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>  
**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>  
**Subject:** RE: Extension of Deadlines

Ed,

We will agree to extend Plaintiffs' deadline to oppose the corporate defendants' summary judgment motion to June 2. We note this is one week longer than timing that Plaintiffs agreed to for Mr. Underwood's motion. We are in agreement on the proposed schedule for the remaining pre-trial deadlines, except for the submission of materials identified in paragraphs 7, 8 and 9 of the Court's order. However, we will agree to extending that deadline to June 30. We also propose asking the Court to schedule a status conference. Our proposed dates are below.

- Plaintiffs' oppositions to the Corporate Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **June 2**
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **June 24**
- Parties shall exchange proposed trial exhibit lists, paragraph 4 of the Court's November 23, 2021 Order for Pre-Trial Submissions ("Order") (Docket No. 192), by **April 28**
- Parties shall exchange objections to the proposed trial exhibits, paragraph 5 of the Court's Order, by **May 12**
- Parties shall meet and confer regarding their objections to the proposed trial exhibits, paragraph 6 of the Courts' Order, by **May 26**
- Pretrial materials identified in paragraphs 7, 8 and 9 of the Court's Order are due by **June 30**
- **Status conference: July \_\_, 2022.**

## GLENN GRAHAM

Special Counsel

**Kelley Drye & Warren LLP**

Tel: (973) 503-5917

Cell: (201) 602-2790

[ggraham@kelleydrye.com](mailto:ggraham@kelleydrye.com)

---

**From:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>  
**Sent:** Wednesday, April 20, 2022 10:04 AM  
**To:** Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw ([mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)) <[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>  
**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>  
**Subject:** RE: Extension of Deadlines

**CAUTION: This message originated outside of Kelley Drye and was sent by: [eglennon@ftc.gov](mailto:eglennon@ftc.gov)**

Jaclyn,

Thank you for your proposed schedule. We can agree to some of your proposed dates, as well as to the idea of working concurrently on the summary judgment briefing and pretrial submissions. We have proposed some changes to your schedule (highlighted below), primarily to give Plaintiffs more time to respond to the summary judgment motion and to allow the parties more time to submit their final pretrial materials. We believe that a summary judgment opposition deadline of June 23, 10 weeks after the motion filing, is eminently reasonable, given that Defendants took roughly 12 weeks to prepare the motion and in light of the number of issues involved. (By contrast, we think that allowing us roughly 4 weeks to oppose, while also requiring us to work on pretrial matters, is unjustified.) We also propose a deadline of August 4, 3 weeks after Defendants' summary judgment reply deadline, for the submission of final pretrial materials. The schedule below therefore would move the final pretrial deadline up by 8 weeks from our initial proposal. We think this proposal would allow the parties to both brief summary judgment and complete the pretrial proceedings without undue difficulty or delay.

- Plaintiffs' oppositions to the Corporate Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **June 23**
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **July 14**
- Parties shall exchange proposed trial exhibit lists, paragraph 4 of the Court's November 23, 2021 Order for Pre-Trial Submissions ("Order") (Docket No. 192), by **April 28**
- Parties shall exchange objections to the proposed trial exhibits, paragraph 5 of the Court's Order, by **May 12**
- Parties shall meet and confer regarding their objections to the proposed trial exhibits, paragraph 6 of the Courts' Order, by **May 26**
- Pretrial materials identified in paragraphs 7, 8 and 9 of the Court's Order are due by **August 4**

Please let us know your thoughts.

Best,

Ed

Edward Glennon | Attorney  
Federal Trade Commission | Bureau of Consumer Protection | Division of Advertising Practices  
Org Code 1145 | Mail Stop CC-6316  
600 Pennsylvania Avenue, NW | Washington DC 20580  
(202) 326-3126 | [eglennon@ftc.gov](mailto:eglennon@ftc.gov)

**From:** Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>

**Sent:** Tuesday, April 19, 2022 11:18 AM

**To:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>; Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Michael B. de Leeuw (<[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>  
<[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>; Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>

**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate



<[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>

**Subject:** RE: Extension of Deadlines

Ed,

We are willing to agree to a briefing schedule and to provide a limited extension of the remaining pretrial deadlines. However, we cannot agree to push everything off for four months. Our proposal is set forth below in red.

- Plaintiffs' oppositions to the Corporate Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **May 16**
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by **June 6**
- Parties shall exchange proposed trial exhibit lists, paragraph 4 of the Court's November 23, 2021 Order for Pre-Trial Submissions ("Order") (Docket No. 192), by **April 28**
- Parties shall exchange objections to the proposed trial exhibits, paragraph 5 of the Court's Order, by **May 12**
- Parties shall meet and confer regarding their objections to the proposed trial exhibits, paragraph 6 of the Courts' Order, by **May 19**
- Pretrial materials identified in paragraphs 7, 8 and 9 of the Court's Order are due by **June 10**

We also propose that Judge Stanton hold a Pretrial Status Conference in late June or early July. Let us know if this schedule is acceptable.

Regards,  
Jaclyn

**JACLYN METZINGER**

**Kelley Drye & Warren LLP**

Tel: (212) 808-7843

Cell: (585) 576-7268

---

**From:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>

**Sent:** Monday, April 18, 2022 11:00 PM

**To:** Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Michael B. de Leeuw (<[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>); Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>

**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>

**Subject:** RE: Extension of Deadlines

<b>CAUTION: This message originated outside of Kelley Drye and was sent by: <a href="mailto:eglennon@ftc.gov">eglennon@ftc.gov</a></b>
--

---

Glenn,

Plaintiffs proposed the pretrial deadlines before Defendants sought and received authorization from the Court to file for summary judgment. Now that Defendants, almost three months after receiving that

authorization, have moved for summary judgment, and given the scope of Defendants' motion, we believe it makes sense for the parties to focus their efforts on briefing before resuming work on the pretrial schedule. The pretrial schedule we have proposed is generally similar to the current one in terms of the spacing of the deadlines.

Please let us know whether our proposed schedule is acceptable.

Best,

Ed

Edward Glennon | Attorney  
Federal Trade Commission | Bureau of Consumer Protection | Division of Advertising Practices  
Org Code 1145 | Mail Stop CC-6316  
600 Pennsylvania Avenue, NW | Washington DC 20580  
(202) 326-3126 | [eglennon@ftc.gov](mailto:eglennon@ftc.gov)

---

**From:** Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>  
**Sent:** Monday, April 18, 2022 5:40 PM  
**To:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>; Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Michael B. de Leeuw (<[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>); Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>  
**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>  
**Subject:** RE: Extension of Deadlines

Ed,

Please explain why Plaintiffs are seeking such a lengthy extension of the pre-trial deadlines set by Judge Stanton, which were based on Plaintiffs' request.

## GLENN GRAHAM

Special Counsel

**Kelley Drye & Warren LLP**  
Tel: (973) 503-5917  
Cell: (201) 602-2790  
[ggraham@kelleydrye.com](mailto:ggraham@kelleydrye.com)

---

**From:** Glennon, Edward <[eglennon@ftc.gov](mailto:eglennon@ftc.gov)>  
**Sent:** Friday, April 15, 2022 5:56 PM  
**To:** Castello, Geoffrey <[GCastello@KelleyDrye.com](mailto:GCastello@KelleyDrye.com)>; Metzinger, Jaclyn <[JMetzinger@kelleydrye.com](mailto:JMetzinger@kelleydrye.com)>; Graham, Glenn T. <[GGraham@KelleyDrye.com](mailto:GGraham@KelleyDrye.com)>; Michael B. de Leeuw (<[mdeleeuw@cozen.com](mailto:mdeleeuw@cozen.com)>); Wise, Tamar S. <[TWise@cozen.com](mailto:TWise@cozen.com)>  
**Cc:** Soberats, Annette <[asoberats@ftc.gov](mailto:asoberats@ftc.gov)>; Wone, Andrew <[awone@ftc.gov](mailto:awone@ftc.gov)>; Matuschak, Kate <[Kate.Matuschak@ag.ny.gov](mailto:Kate.Matuschak@ag.ny.gov)>  
**Subject:** Extension of Deadlines

**CAUTION: This message originated outside of Kelley Drye and was sent by: [eglennon@ftc.gov](mailto:eglennon@ftc.gov)**

Counsel,

We would like to extend the upcoming deadlines related to Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219). We also would like to change the remaining pretrial deadlines. We propose the following schedule:

- Plaintiffs' oppositions to Defendants' motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by June 23, 2022.
- Defendants' replies in support of their motion for summary judgment (Docket No. 220) and request to file under seal (Docket No. 219) are due by July 21, 2022.
- Parties shall exchange proposed trial exhibit lists, paragraph 4 of the Court's November 23, 2021 Order for Pre-Trial Submissions ("Order") (Docket No. 192), by August 4, 2022.
- Parties shall exchange objections to the proposed trial exhibits, paragraph 5 of the Court's Order, by August 25, 2022.
- Parties shall meet and confer regarding their objections to the proposed trial exhibits, paragraph 6 of the Courts' Order, by September 8, 2022.
- Pretrial materials identified in paragraphs 7, 8 and 9 of the Court's Order are due by September 29, 2022.

Please let us know whether the Corporate Defendants and Mr. Underwood consent.

Best,

Ed

Edward Glennon | Attorney  
Federal Trade Commission | Bureau of Consumer Protection | Division of Advertising Practices  
Org Code 1145 | Mail Stop CC-6316  
600 Pennsylvania Avenue, NW | Washington DC 20580  
(202) 326-3126 | [eglennon@ftc.gov](mailto:eglennon@ftc.gov)

This message is subject to Kelley Drye & Warren LLP's email communication policy.

[KDW-Disclaimer](#)

***Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.***